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**MEMO ENDORSED**

REPLY TO **MONTCLAIR** OFFICE

January 8, 2021

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Via ecf

Honorable Valerie E. Caproni, U.S.D.J.  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: *United States v. Edwin Cortorreal*, 17 Cr. 438 (VEC)

Dear Judge Caproni:

We represent Edwin Cortorreal in this case. Motions are due February 5, 2021, although no trial date has been set due to the uncertainty about when some normalcy will return. We write, respectfully, and with consent of the Government, to request that the motions date be continued for four months and that a new motion schedule be set by the Court at the April 2, 2021 status conference. We seek this continuance of the motion date in order to further our work toward a satisfactory resolution of this case. This task has become impossible given the constraints on developing attorney-client rapport in the midst of this terrible pandemic. We also request that the Court set a new firm, realistic trial date for the end of this year or the beginning of next year, to ensure that there will be no conflict with other trial settings.<sup>1</sup>

As the Court may recall, Mr. Cortorreal was extradited from the Dominican Republic early last year. Ms. Barrett was appointed to represent him at his initial appearance and arraignment on the indictment occurred on February 3, 2021. At that proceeding, the Court ordered detention and he was incarcerated at the Metropolitan Corrections Center (MCC).

Ms. Barrett was able to speak with Mr. Cortorreal before the proceeding and advised

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<sup>1</sup>The only scheduling issue of which we are currently aware is that Ms. Barrett has a trial in a death penalty case in the Eastern District of Michigan beginning October 4, 2021 which is estimated to last six weeks. Mr. Silverman has three trials one each in May, June and July.

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him that she would visit him at the MCC at the earliest opportunity. Before she was able to do that, legal visits at the MCC were halted while the institution investigated the smuggling of a firearm into the facility.

After several weeks, a few units, including Mr. Cortorreal's, opened for legal visits and Ms. Barrett arranged for a visit on Saturday, March 7. That visit took place, not in a private attorney visit room, but rather in the social visit room on the tier within several feet of a half-dozen other lawyers seated face to face with their clients. Expecting a different setting Ms. Barrett had brought digital discovery to review with Mr. Cortorreal, but that could not happen in the absence of computers, tables and privacy. We have since provided Mr. Cortorreal with digital discovery which he could not review due to limited computer access during the pandemic lockdown at MCC. Discovery which could be produced in paper was forwarded to him, but important portions, such as videos, voluminous telephone records and jail recordings are only available in digital form.

Since that meeting, Ms. Barrett has been unable to visit with Mr. Cortorreal in person. She attempted a video conference once, but it became obvious that it would be impossible to have a private conversation, since the clients are not equipped with headphones and inmates and guards passed behind Mr. Cortorreal during the conference. Consequently, Ms. Barrett has only had telephone contact with Mr. Cortorreal for the last 10 months.<sup>2</sup>

Faced with voluminous discovery in a case in which her client faced the possible sentence of life without parole, Ms. Barrett applied to the Court in October for the appointment of Mr. Silverman as a second lawyer. We have maintained regular telephone contact with Mr. Cortorreal, however, we have been unable to review discovery with him using that medium.

For these and other reasons involving privileged information that we will express to the Court in a sealed submission, it has impossible to establish the kind of rapport essential to an informed discussion of any possible resolution. With the motion deadline looming, the Government has set a plea deadline which the above-described circumstances have made it impossible for us to meet.

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<sup>2</sup>Ms. Barrett considered an in-person visit over the summer, however, reports from attorneys who visited clients before the second wave of the pandemic began made clear that the airflow in the attorney visit rooms was inadequate, the physical alterations did little to prevent the flow of aerosoles and corrections officers were not routinely masked.

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Covid-19 cases continue to rise and vaccinations will only be available to the general public, including, apparently, to persons incarcerated by the Bureau of Prisons, by April. Consequently, we submit that continuing the motion deadline and setting a firm trial date at the end of this year or the beginning of next year is the most realistic way to ensure our effective assistance of counsel for Mr. Cortorreal. The Government has no objection to this continuance.

The parties agree that this continuance will best serve the interests of the public and Mr. Cortorreal and request that the time between February 5, 2021 and April 2, 2021 be excluded from the provisions of the Speedy Trial Act.

Thank you for your attention to our request

Respectfully submitted,

Benjamin Silverman  
Jean D. Barrett  
Attorneys for Edwin Cortorreal

By: /s/ Jean D. Barrett  
Jean D. Barrett

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Application GRANTED. Defendant's pretrial motions are due by **June 9, 2021**. The Government's opposition is due by **July 7, 2021**. Defendant's reply is due by **July 23, 2021**. The status conference will be held as scheduled on **April 2, 2021 at 2:00 p.m.**, at which point the Court will set a trial date. Counsel are directed to appear for the conference by calling (888) 363-4749, using the access code 3121171 and the security code 0438.

SO ORDERED.



HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE

1/11/2021